THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5413 OF 2006

DATED: 06-03-2007

BETWEEN

A. Krishna, S/o. Appa Rao,
Occ. Pvt. Employee,
R/o. 74-32/1-3/1,Dall Mill
Centre, Near Vidyardhi School,
Kamaiah Thopu, Vijayawada.

…PETITIONER

AND

The Commissioner of Police,
Vijayawada City and others.

…RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the third respondent in not registering the case against the fourth respondent as illegal and arbitrary and consequently to direct the respondents 1 and 2 to take appropriate action against respondents
3 and 4.

2. It is the case of the petitioner that he is the tenant and fourth respondent is the landlord in respect of premises bearing D.No.42-60-4, Block No.12, Ajit Sing Nagar, Luna Centre, Vijayawada on a monthly rent of Rs.1,000/-. It is stated that the petitioner could not pay rent of two months of Rs.2,000/- and on that account the fourth respondent driven out the wife of the petitioner and the house hold articles and utensils were kept in a room. It is stated that in that connection the petitioner lodged a complaint before the

third respondent but no action has been taken, therefore, they have sent a representation to the Commissioner of Police, Vijayawada by post and also to the Assistant Commissioner of Police, Vijayawada and received endorsement on 07.03.2006 but no action has been taken so far.

3. Initially the third respondent filed a counter stating that on 27.02.2006 the petitioner lodged a complaint, though the same was entered in the General Diary, no crime has been registered stating that the wife of the petitioner herself locked the premises and went away along with her children without paying the rents to the fourth respondent. Thereafter, the fourth respondent broke open the lock and preserved the household articles and utensils belonging to the family of the petitioner.

4. However, the fact remain that no crime has been registered in spite of clear allegations in the written intimation about commission of cognizable offence on 27.02.2006, till 30.03.206. A case in Cr.No.95 of 2006 for the offence under Sections 352, 290, 457 and 380 of the Indian Penal Code, 1860 was registered only after the writ petition had been filed on 14.03.2006. It is stated that the said delay is not wilful and wanton.

5. This Court ordered notice before admission on 20.03.2006.
The first respondent also filed a counter stating that appropriate departmental action has been taken against the Sub-Inspector of Police – third respondent and in fact, he had been transferred to a distant place – Vuyyuru, as part of punishment for his lapse in not properly responding to the complaint made by the petitioner.
It is stated that he also issued a charge memo vide proceedings C.No.154/MPR/2006, dated 23.06.2006 calling upon the third respondent to explain as to why appropriate action shall not be taken against him.

6. Learned Government Pleader for Home passed on the order in C.No.154/MPR/2006 dated 23.06.2006 of the Commissioner of Police,

Vijayawada, wherein the third respondent was awarded a censure and warned to be careful in future. Thus, it is stated that departmental action has been taken.

7. Apart from the departmental action taken against the third respondent, it is open for the petitioner to file a written representation before the concerned officials to take criminal action against the third respondent for disobedience of the directions of law, which is an offence punishable under Section 166 of the Indian Penal Code, 1860.

As the crime has already been registered and departmental action has been taken for the delay in registering the crime,

the writ petition is disposed of keeping it open to the petitioner to proceed against the third respondent as indicated above. There shall be no order as to costs.

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V. ESWARAIAH, J

March 6, 2007
DSK